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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,624	01/22/2004	Diane E. Delaney	1606-1	7711

7590 05/18/2004

JOHN MAIER, III
666 AARON COURT
KINGSTON, NY 12401

EXAMINER

O MALLEY, KATHRYN S

ART UNIT	PAPER NUMBER
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3749

DATE MAILED: 05/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/763,624	Applicant(s) DELANEY ET AL.	
	Examiner Kathryn S. O'Malley	Art Unit 3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/22/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 5-7 and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Outlaw (US Patent 4,464,906) in view of Tatsutani et al. (US Patent 5,459,944).
3. Outlaw teaches an apparatus for drying fingernails comprising a housing with side walls 26, front wall 25, back wall 27, bottom 24, and top 28; an enclosure 30 for inserting a hand or foot; means for cooling air 18; blowers 14 and 16 and motor 12 for directing the drying air to the nails; power means 42; activating means 98; and temperature sensor 80 that sets and controls the temperature of the air being blown onto the nails. Outlaw does not teach a heating means, a timer, or a motion sensor to activate and stop the blowers. Tatsutani et al. teaches a similar apparatus for blowing air onto hands comprising housing 6, enclosure 5 for receiving human hands, nozzles 31 and 32 with heaters for blowing warm air onto the hands, and motion sensors 25 connected to timers for activating the blowers when the sensors 25 detect human hands and stopping the blowers when a certain time period has passed. Note column 5, line 47- column 6, line 12 and Figures 1 and 3. As Tatsutani et al. teaches that heaters, sensors, and timers in hand treating apparatus lead to more efficient, effective, and sanitary treatment, it would have been obvious to one of ordinary skill in the art to

incorporate such elements into the hand treating apparatus of Outlaw. Regarding claim 6, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). Regarding claim 7, such limitations would have been obvious to one of ordinary skill in the art since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

4. Claims 8, 12, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Outlaw and Tatsutani et al. as applied to claims 1 and 11 above, and further in view of Barnes (US Patent 6,405,387).

5. Outlaw, as modified by Tatsutani et al., does not teach supplying sanitizing means with a timer. Barnes teaches a similar treating apparatus comprising enclosure 10 with sensor 40 coupled to timer 38 for activating sanitizing means 28. Note column 4, lines 4-17. As Barnes teaches that a sanitizer activated by a timer will efficiently and effectively kill germs left behind after treatment, it would have been obvious to one of ordinary skill in the art to modify the treating apparatus of Outlaw, as modified by Tatsutani et al., with the sanitizing timer of Barnes.

Conclusion

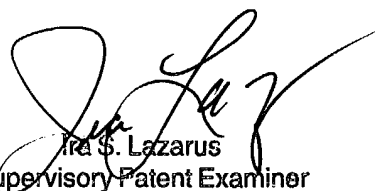
6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Rubin, Bloom, and Nafziger et al. teach similar apparatus.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathryn S. O'Malley whose telephone number is (703)308-2844. The examiner can normally be reached on M-F (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached on (703)308-1935. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KSO


Ira S. Lazarus
Supervisory Patent Examiner
Group 3700